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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,835	12/27/2001	Robert E. Best JR.	BS01315	9850
38516 7590 12/12/2007 SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			EXAMINER VAN HANDEL, MICHAEL P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,835	Applicant(s) BEST ET AL.	
	Examiner Michael Van Handel	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/21/2007 has been entered.

Response to Amendment

1. This action is responsive to an Amendment filed 9/21/2007. Claims **48-77** are pending. Claims **48-77** are new. Claims **1-47** are canceled. The examiner hereby withdraws the rejections of claims **21, 25, 45-47** under 35 USC 112, first paragraph in light of the amendment.

Response to Arguments

1. Applicant's arguments regarding claims **1, 4-11, 13-77**, filed 9/21/2007, have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims **54-57, 64-67, 74-77** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **54, 64, and 74**, the claims require that the at least one action executed by the computer comprises directing an email application to retrieve and send email messages, directing a voicemail application to retrieve voicemail messages, and tuning to a channel and adjusting a volume. The examiner notes that applicant's specification describes a number of examples of information delivery actions in a number of different environments. In a computer embodiment, a user can configure a computer to retrieve and send e-mail and retrieve voice mail messages (p. 5, paragraph 18; p. 10-15, paragraphs 27-32; & Tables 1, 2). In a set-top box embodiment, the set-top box can be instructed to tune to a specified channel and adjust the volume of the television when a user is detected (p. 5-6, paragraph 19 & Table 3). The examiner fails to find support for a computer executing all of the claimed actions.

Referring to claims **55-57, 65-67, and 75-77**, the examiner fails to find support for "wirelessly transmitting an activation signal from a presence detector," "in response to the activation signal, wirelessly receiving an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user associated with a transponder," and wherein the identification signal is either "an ultrasonic signal," "an infrared signal," or the detection of "a Doppler shift caused by the user." Applicant's specification refers to the "wirelessly transmitting an activation signal" and "wirelessly receiving an identification

signal” steps in regard to a radio frequency identification (RFID) system (p. 7, paragraph 21). The examiner fails to find support for the two steps, wherein the signal is any of: an ultrasonic signal, an infrared signal, or the detection of a Doppler shift. In fact, Applicant’s specification states that ultrasonic, infrared, and Doppler shift detectors are motion detectors that do not discriminate between different users (p. 6, paragraph 20). Thus, they cannot transmit user identifiers and do not have transponders.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **48, 49, 53, 54, 58, 59, 63, 64, 68, 69, 73, and 74** are rejected under 35

U.S.C. 102(e) as being anticipated by Robarts et al.

Referring to claims **48, 58, and 68**, Robarts et al. discloses a method/system, comprising:

- wirelessly transmitting an activation signal from a presence detector and, in response to the activation signal, wirelessly receiving an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user associated with a transponder (using RFID as an input device)(col. 8, l. 36);

- communicating the user identifier to a computer coupled to the presence detector (col. 6, l. 4-9; col. 7, l. 24-29; & Fig. 1);
- querying a user profile associated with the user identifier and accessing the user profile to determine at least one action to be executed in response to the user identifier (pre-set themes configured for a specific user are retrieved based on the user's current state)(col. 7, l. 41-46, 53-67; col. 8, l. 1-2, 65-67; col. 9, l. 1-8; & col. 22, l. 58-63);
- executing the at least one action, the at least one action comprising:
 - i) directing an email application to retrieve and send email messages (col. 22, l. 64-66); and
 - ii) directing a voicemail application to retrieve voicemail messages (col. 22, l. 64-66);
- sending the user identifier to a presence database (col. 8, l. 41-44, 57-58; col. 9, l. 26-28; col. 26, l. 53-56; & col. 41, l. 43-45);
- querying the presence database for other user identifiers associated with the user identifier and receiving presence updates identifying presence of the other user identifiers (col. 29, l. 33-34; col. 39, l. 36-40; & Figs. 11L, 12C).

Referring to claims 49, 59, and 69, Robarts et al. discloses the method/system according to claims 48, 58, and 68, further comprising accessing conflict determination rules when two or more actions conflict, the conflict determination rules specifying that a first executed action predominates over a later action (the computer switches between themes based on a time attribute)(col. 24, l. 53-58).

Referring to claims **53, 63, and 73**, Robarts et al. discloses the method/system according to claims 48, 58, and 68, wherein executing the at least one action comprises requesting information for a webpage (col. 11, l. 61-65; col. 23, l. 7; & col. 34, l. 62-65).

Referring to claims **54, 64, and 74**, Robarts et al. discloses the method/system according to claims 48, 58, and 68, wherein executing the at least one action comprises tuning to a channel and adjusting a volume (the Watching TV theme provides functionality to control the remote)(col. 49, l. 6-8).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **50, 51, 60, 61, 70, 71** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robarts et al. in view of Gutta et al. (US 2002/0194586).

Referring to claims **50, 51, 60, 61, 70, and 71**, Robarts et al. discloses the method/system according to claims 49, 59, and 69. Robarts et al. further discloses entertainment attribute sets may include a user's favorite television channels, music preferences, etc. (col. 23, l. 7-9). Robarts et al. also discloses that theme attributes can be selected from sets of predefined attributes available for all clients, allowing a common meaning to be shared between clients for those attributes and their values (col. 25, l. 46-55). For example, a Driving theme may coordinate with context information for car passengers, so that a selected radio station is

acceptable on everyone (col. 48, l. 38-42). Robarts et al. does not disclose specifying that one of the user's actions predominate or querying to determine which user's action predominates. Gutta et al. discloses a system for multi-user profile generation (see Title). Gutta et al. further discloses that a user may rank combinatorial preferences that dictate how to handle preferences of a user in light of other users who may be present in a television viewing area (p. 2, paragraph 21). For example, users could be weighted differently, such that preferences of certain users are taken into account more than preferences of other users (p. 3, paragraph 29). If a first user's preferences are weighted more heavily than a second user's in the viewing area, the system may recommend multiple options and allow the users to choose (p. 3, paragraph 30). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Robarts et al. to include weighting user preferences differently and allowing users to choose between multiple options when there is a conflict between user preferences, such as that taught by Gutta et al. in order to create viewing recommendations based on user preferences that depend on predetermined weighting factors set by users (Gutta et al. p. 1, paragraph 10).

3. Claims **52, 62, 72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robarts et al. in view of Stas et al.

Referring to claims **52, 62, and 72**, Robarts et al. discloses the method/system according to claims 48, 58, and 68. Robarts et al. further discloses a Watching TV theme that provides functionality to control the remote (col. 49, l. 6-8). Robarts et al. does not disclose denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can

be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the Watching TV theme of Robarts et al. to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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